



TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

200919062

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Uniform Issue List: 408.03-00

SE:T:EP:RA:T1

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**Legend:**

Taxpayer A	= *****
Taxpayer B	= *****
Financial Institution C	= *****
Financial Institution D	= *****
Financial Institution E	= *****
IRA Account 1	= *****
Amount 1	= \$ *****
Amount 2	= \$ *****
Amount 3	= \$ *****

Dear \*\*\*\*\*:

This is in response to a letter dated \*\*\*\*\* in which you request a waiver of the 60-day rollover requirement contained in section 408(d)(3) of the Internal Revenue Code (the "Code").

The following facts and representations have been submitted under penalty of perjury in support of the ruling requested.

Taxpayer A, age \*\*\*, represents that he received a distribution from his individual retirement arrangement ("IRA Account 1") totaling Amount 1. Taxpayer A asserts that his failure to accomplish a rollover within the 60-day period prescribed by section 408(d)(3) was due to Taxpayer A's and Taxpayer B's medical conditions. Taxpayer A further represents that Amount 1 has not been used for any other purpose.

Taxpayer A is the owner of IRA Account 1 at Financial Institution C. On \*\*\*\*\*, Taxpayer A withdrew Amount 1 from IRA Account 1, and represents that he intended

to establish a rollover IRA at Financial Institution E. The money distributed from IRA Account 1 was, however, deposited in a savings account at Financial Institution D. Taxpayer A's savings account at Financial Institution D is not a qualified IRA. Financial Institution B did not withhold tax when it distributed Amount 1 to Taxpayer A.

At the time he withdrew Amount 1 from IRA Account 1, Taxpayer A was heavily involved in caring for his spouse, Taxpayer B, who was seriously ill and was hospitalized twice for several complicated surgeries during the 60-day rollover period. At the same time, Taxpayer A was trying to provide care for Taxpayer B, he was working full time and assuming additional responsibility for the care of their autistic daughter. As a result, Taxpayer A failed to complete a rollover of Amount 1 into an IRA at Financial Institution E within 60 days.

Approximately 2 weeks after the expiration of the 60-day rollover period, Taxpayer A realized he had missed the deadline. After inquiring with tax professionals about filing for a waiver, Taxpayer A contacted the Internal Revenue Service (IRS) for assistance in preparing a ruling request and applying for a waiver ruling. The IRS responded to Taxpayer A's request for assistance during the week preceding July 30, 2007, and he filed his request for a waiver of the 60-day rollover rules on August 8, 2007, approximately 6 weeks after the expiration of his 60-day rollover period.

Of the money distributed from IRA Account 1 on April 26, 2007, Amount 2 remains in the nonqualified savings account at Financial Institution D. Taxpayer A represents that, on April 15, 2008, he withdrew Amount 3 from the nonqualified savings account at Financial Institution D in order to pay his income taxes. Taxpayer A states that he lacked other resources to meet his tax liabilities, and that the remaining amount withdrawn from IRA Account 1 has not been spent.

Based on the above facts and representations, you request a ruling that the Internal Revenue Service ("Service") waive the 60-day rollover requirement contained in section 408(d)(3) of the Code with respect to the distribution of Amount 1 from IRA Account E.

Section 408(d)(1) of the Code provides that, except as otherwise provided in section 408(d), any amount paid or distributed out of an IRA shall be included in gross income by the payee or distributee, as the case may be, in the manner provided under section 72 of the Code.

Section 408(d)(3) of the Code defines, and provides the rules applicable to IRA rollovers.

Section 408(d)(3)(A) of the Code provides that section 408(d)(1) of the Code does not apply to any amount paid or distributed out of an IRA to the individual for whose benefit the IRA is maintained if:

- (i) the entire amount received (including money and any other property) is paid into an IRA for the benefit of such individual not later than the 60<sup>th</sup> day after the day on which the individual receives the payment or distribution; or

(ii) the entire amount received (including money and any other property) is paid into an eligible retirement plan (other than an IRA) for the benefit of such individual not later than the 60<sup>th</sup> day after the date on which the payment or distribution is received, except that the maximum amount which may be paid into such plan may not exceed the portion of the amount received which is includible in gross income (determined without regard to section 408(d)(3)).

Section 408(d)(3)(B) of the Code provides that section 408(d)(3) does not apply to any amount described in section 408(d)(3)(A)(i) received by an individual from an IRA if at any time during the 1-year period ending on the day of such receipt such individual received any other amount described in section 408(d)(3)(A)(i) from an IRA which was not includible in gross income because of the application of section 408(d)(3).

Section 408(d)(3)(D) of the Code provides a similar 60-day rollover period for partial rollovers.

Section 408(d)(3)(E) of the Code provides that the rollover provisions of section 408(d) do not apply to any amount required to be distributed under section 408(a)(6).

Section 408(d)(3)(I) of the Code provides that the Secretary may waive the 60-day requirement under sections 408(d)(3)(A) and 408(d)(3)(D) of the Code where the failure to waive such requirement would be against equity or good conscience, including casualty, disaster, or other events beyond the reasonable control of the individual subject to such requirement. Only distributions that occurred after December 31, 2001, are eligible for the waiver under section 408(d)(3)(I) of the Code.

Rev. Proc. 2003-16, 2003-4 I.R.B. 359 (January 27, 2003) provides that in determining whether to grant a waiver of the 60-day rollover requirement pursuant to section 408(d)(3)(I), the Service will consider all relevant facts and circumstances, including: (1) errors committed by a financial institution; (2) inability to complete a rollover due to death, disability, hospitalization, incarceration, restrictions imposed by a foreign country or postal error, (3) the use of the amount distributed (for example, in the case of payment by check, whether the check was cashed); and (4) the time elapsed since the distribution occurred.

The information presented and documentation submitted by Taxpayer A is consistent with his assertion that his failure to accomplish a timely rollover was caused by illnesses and hospitalizations of Taxpayer A and Taxpayer B.

Therefore, pursuant to section 408(d)(3)(I) of the Code, the Service hereby waives the 60-day rollover requirement with respect to the distribution of Amount 1 from IRA Account 1. Taxpayer A is granted a period of 60 days from the issuance of this ruling letter to contribute all or a portion of Amount 1 into a rollover IRA. Provided all other requirements of section 408(d)(3) of the Code, except the 60-day requirement, are met with respect to such contribution, Amount 1 will be considered a rollover contribution within the meaning of section 408(d)(3) of the Code.

This ruling does not authorize the rollover of those portions of Amount 1 that are required under section 408(a)(6) or 408(b)(3) of the Code to be distributed to the IRA owner, under rules similar to the rules found in section 401(a)(9) of the Code.

No opinion is expressed as to the tax treatment of the transaction described herein under the provisions of any other section of either the Code or regulations that may be applicable thereto.

This ruling letter is directed only to the taxpayer who requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

If you wish to inquire about this ruling, please contact \*\*\*\*\* (ID Number \*\*\*\*\* ) by phone at (\*\*) \*\*\*-\*\*\*\* or by fax at (\*\*) \*\*\*-\*\*\*\*. Please address all correspondence to SE:T:EP:RA:T1.

Sincerely,

A handwritten signature in cursive script that reads "Carlton A. Watkins".

Carlton A. Watkins, Manager  
Employee Plans Technical Group 1